

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

No. 1272

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Introduced by Assembly Member Grove

February 27, 2015

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An act to ~~amend Section 22500 of~~ *add Section 729 to the Business and Professions Code, to amend Sections 6250 and 6251 of, and to add Section 6211.1 to, the Family Code, and to amend Section 836 of, and to add Section 268 to, the Penal Code, relating to—business developmental disabilities.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 1272, as amended, Grove. ~~Ticket sellers.—Persons with developmental disabilities: sexual exploitation.~~

(1) *Existing law establishes that the crime of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has occurred when any physician and surgeon, psychotherapist, alcohol and drug abuse counselor engages in specified sexual acts with a patient or client, or with a former patient or client, as provided.*

*This bill would provide that a developmental disability residential service provider is guilty of sexual exploitation when he or she engages in specified sexual acts with a person with a developmental disability who is an inpatient or resident of a treatment or care facility, unless the person is his or her spouse or domestic partner. Because this bill would create a new crime, it would impose a state-mandated local program.*

(2) *Existing law authorizes a judicial officer to issue an ex parte emergency protective order when a law enforcement officer has*

*reasonable grounds to believe that a person is in immediate and present danger of domestic violence, a child is in immediate and present danger of abuse by a family or household member or may be abducted by a parent or relative, or when an elder or dependant adult is in immediate and present danger of abuse, as specified.*

*This bill would also authorize a judicial officer to issue an ex parte emergency protective order when a law enforcement officer has reasonable grounds to believe that a person with a developmental disability is in immediate and present danger of sexual exploitation by a developmental disability residential service provider.*

*(3) Existing law requires that any time a peace officer is called out on a domestic violence call, the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest, except as specified.*

*This bill would, among other things, also require a peace officer who receives a call alleging that a person with a developmental disability is being sexually exploited by a developmental disability residential service provider, to inform the victim of his or her right to make a citizen's arrest, except as specified. By imposing additional duties on local authorities, the bill would create a state-mandated local program.*

*(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~Existing law requires a ticket seller to have a permanent business address that shall be included in any advertisement and from which tickets may only be sold and requires the ticket seller to be licensed as may be required by a local jurisdiction. A violation of these provisions is a crime and is subject to a civil penalty.~~

~~This bill would make a nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     **SECTION 1.** *Section 729 of the Business and Professions Code*  
2 *is amended to read:*

3     729. (a) (1) Any physician and surgeon, psychotherapist,  
4 alcohol and drug abuse counselor or any person holding himself  
5 or herself out to be a physician and surgeon, psychotherapist, or  
6 alcohol and drug abuse counselor, who engages in an act of sexual  
7 intercourse, sodomy, oral copulation, or sexual contact with a  
8 patient or client, or with a former patient or client when the  
9 relationship was terminated primarily for the purpose of engaging  
10 in those acts, *is guilty of sexual exploitation*, unless the physician  
11 and surgeon, psychotherapist, or alcohol and drug abuse counselor  
12 has referred the patient or client to an independent and objective  
13 physician and surgeon, psychotherapist, or alcohol and drug abuse  
14 counselor recommended by a third-party physician and surgeon,  
15 psychotherapist, or alcohol and drug abuse counselor ~~for treatment,~~  
16 ~~is guilty of sexual exploitation by a physician and surgeon,~~  
17 ~~psychotherapist, or alcohol and drug abuse counselor.~~ *treatment.*

18     (2) *Any developmental disability residential service provider*  
19 *who engages in an act of sexual intercourse, sodomy, oral*  
20 *copulation, or sexual contact with a person with a developmental*  
21 *disability who is an inpatient or resident of a treatment or care*  
22 *facility where the provider is employed or holds himself or herself*  
23 *out to be employed, or any former developmental disability*  
24 *residential service provider who engages in any of those acts with*  
25 *an inpatient or resident when the inpatient or resident has not*  
26 *been informed or does not understand that the former provider is*  
27 *not employed by the treatment or care facility, is guilty of sexual*  
28 *exploitation.*

29     (b) Sexual exploitation by a physician and surgeon,  
30 psychotherapist, ~~or~~ alcohol and drug abuse counselor, *or a*  
31 *developmental disability residential service provider* is a public  
32 offense:

33     (1) An act in violation of subdivision (a) shall be punishable by  
34 imprisonment in a county jail for a period of not more than six  
35 months, or a fine not exceeding one thousand dollars (\$1,000), or  
36 by both that imprisonment and fine.

37     (2) Multiple acts in violation of subdivision (a) with a single  
38 victim, when the offender has no prior conviction for sexual

1 exploitation, shall be punishable by imprisonment in a county jail  
2 for a period of not more than six months, or a fine not exceeding  
3 one thousand dollars (\$1,000), or by both that imprisonment and  
4 fine.

5 (3) An act or acts in violation of subdivision (a) with two or  
6 more victims shall be punishable by imprisonment pursuant to  
7 subdivision (h) of Section 1170 of the Penal Code for a period of  
8 16 months, two years, or three years, and a fine not exceeding ten  
9 thousand dollars (\$10,000); or the act or acts shall be punishable  
10 by imprisonment in a county jail for a period of not more than one  
11 year, or a fine not exceeding one thousand dollars (\$1,000), or by  
12 both that imprisonment and fine.

13 (4) Two or more acts in violation of subdivision (a) with a single  
14 victim, when the offender has at least one prior conviction for  
15 sexual exploitation, shall be punishable by imprisonment pursuant  
16 to subdivision (h) of Section 1170 of the Penal Code for a period  
17 of 16 months, two years, or three years, and a fine not exceeding  
18 ten thousand dollars (\$10,000); or the act or acts shall be punishable  
19 by imprisonment in a county jail for a period of not more than one  
20 year, or a fine not exceeding one thousand dollars (\$1,000), or by  
21 both that imprisonment and fine.

22 (5) An act or acts in violation of subdivision (a) with two or  
23 more victims, and the offender has at least one prior conviction  
24 for sexual exploitation, shall be punishable by imprisonment  
25 pursuant to subdivision (h) of Section 1170 of the Penal Code for  
26 a period of 16 months, two years, or three years, and a fine not  
27 exceeding ten thousand dollars (\$10,000).

28 ~~For~~

29 (c) ~~For purposes of subdivision (a), in no instance shall consent~~  
30 ~~of the patient or client be consent of the alleged victim is not a~~  
31 defense. However, physicians and surgeons shall not be guilty of  
32 sexual exploitation for touching any intimate part of a patient or  
33 client unless the touching is outside the scope of medical  
34 examination and treatment, or the touching is done for sexual  
35 gratification. *In addition, developmental disability residential*  
36 *service providers shall not be guilty of sexual exploitation for*  
37 *touching any intimate part of an inpatient or resident unless the*  
38 *touching is outside the scope of his or her care or treatment*  
39 *responsibilities or the touching is done for sexual gratification.*

40 (e)

(d) For purposes of this section:

(1) “Psychotherapist” has the same meaning as defined in Section 728.

(2) “Alcohol and drug abuse counselor” means an individual who holds himself or herself out to be an alcohol or drug abuse professional or paraprofessional.

(3) “Sexual contact” means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse.

(4) “Intimate part” and “touching” have the same meanings as defined in Section 243.4 of the Penal Code.

(5) *“Developmental disability” has the same meaning as defined in Section 4512 of the Welfare and Institutions Code.*

(6) *“Developmental disability residential service provider” means either of the following:*

(A) *A person who is, or holds himself or herself out to be, an employee, contractor, or volunteer of a treatment or care facility for persons with developmental disabilities and who provides treatment or care to inpatients or residents of the facility.*

(B) *A person who is, or holds himself or herself out to be, an owner, officer, manager, or supervisor of a treatment or care facility that provides treatment or care to inpatients or residents who are persons with developmental disabilities.*

~~(d)~~

(e) In the investigation and prosecution of a violation of this section, ~~no~~ a person shall *not* seek to obtain disclosure of any confidential files of other patients, clients, or former patients or clients of the physician and surgeon, psychotherapist, ~~or~~ alcohol and drug abuse counselor, *or developmental disability residential service provider.*

~~(e)~~

(f) (1) This section does not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

(2) *This section does not apply to sexual contact between a developmental disability residential service provider and his or her spouse or person in an equivalent domestic relationship when*

1 *that service provider provides care or treatment to, or is an owner,*  
2 *officer, manager, or supervisor of the facility that provides care*  
3 *or treatment to, his or her spouse or person in an equivalent*  
4 *domestic relationship.*

5 (f)

6 (g) If a physician and surgeon, psychotherapist, ~~or~~ alcohol and  
7 drug abuse counselor, *or developmental disability residential*  
8 *service provider* in a professional partnership or similar group has  
9 sexual contact with a patient, *client, or resident* in violation of this  
10 section, another physician and surgeon, psychotherapist, ~~or~~ alcohol  
11 and drug abuse counselor, *or developmental disability residential*  
12 *service provider* in the partnership or group shall not be subject  
13 to action under this section solely because of the occurrence of  
14 that sexual contact.

15 (h) *This section does not preclude arrest, prosecution, or*  
16 *conviction of any person under any other law.*

17 (i) *This section and Section 268 of the Penal Code are*  
18 *substantially identical. It is the intent of Legislature that this*  
19 *section and Section 268 of the Penal Code remain substantially*  
20 *identical following any future amendments.*

21 SEC. 2. *Section 6211.1 is added to the Family Code, to read:*

22 6211.1. *Nothing in this division shall be interpreted to define*  
23 *as domestic violence any crimes against children, elders, dependent*  
24 *adults, or persons with developmental disabilities who are not*  
25 *described in Section 6211.*

26 SEC. 3. *Section 6250 of the Family Code is amended to read:*

27 6250. A judicial officer may issue an ex parte emergency  
28 protective order ~~where~~ *if* a law enforcement officer asserts  
29 reasonable grounds to believe any of the following:

30 (a) That a person is in immediate and present danger of domestic  
31 violence, based on the person's allegation of a recent incident of  
32 abuse or threat of abuse by the person against whom the order is  
33 sought.

34 (b) That a child is in immediate and present danger of abuse by  
35 a family or household member, based on an allegation of a recent  
36 incident of abuse or threat of abuse by the family or household  
37 member.

38 (c) That a child is in immediate and present danger of being  
39 abducted by a parent or relative, based on a reasonable belief that  
40 a person has an intent to abduct the child or flee with the child

1 from the jurisdiction or based on an allegation of a recent threat  
2 to abduct the child or flee with the child from the jurisdiction.

3 (d) That an elder or dependent adult is in immediate and present  
4 danger of abuse as defined in Section 15610.07 of the Welfare and  
5 Institutions Code, based on an allegation of a recent incident of  
6 abuse or threat of abuse by the person against whom the order is  
7 sought, except that no emergency protective order shall be issued  
8 based solely on an allegation of financial abuse.

9 (e) *That a person with a developmental disability, as defined in*  
10 *Section 4512 of the Welfare and Institutions Code, is in immediate*  
11 *and present danger of sexual exploitation by a developmental*  
12 *disability residential service provider, as described in Section 729*  
13 *of the Business and Professions Code and Section 268 of the Penal*  
14 *Code.*

15 SEC. 4. *Section 6251 of the Family Code is amended to read:*  
16 6251. An emergency protective order may be issued only if  
17 the judicial officer finds both of the following:

18 (a) That reasonable grounds have been asserted to believe that  
19 an immediate and present danger of domestic violence exists, that  
20 a child is in immediate and present danger of abuse or abduction,  
21 ~~or~~ that an elder or dependent adult is in immediate and present  
22 danger of abuse as defined in Section 15610.07 of the Welfare and  
23 Institutions Code, *or that a person with a developmental disability*  
24 *is in immediate and present danger of sexual exploitation by a*  
25 *developmental disability residential service provider as described*  
26 *in Section 729 of the Business and Professions Code and Section*  
27 *268 of the Penal Code.*

28 (b) That an emergency protective order is necessary to prevent  
29 the occurrence or recurrence of domestic violence, child abuse,  
30 child abduction, ~~or~~ abuse of an elder or dependent adult, *or sexual*  
31 *exploitation of a person with a developmental disability.*

32 SEC. 5. *Section 268 is added to the Penal Code, to read:*

33 268. (a) (1) Any physician and surgeon, psychotherapist,  
34 alcohol and drug abuse counselor or any person holding himself  
35 or herself out to be a physician and surgeon, psychotherapist, or  
36 alcohol and drug abuse counselor, who engages in an act of sexual  
37 intercourse, sodomy, oral copulation, or sexual contact with a  
38 patient or client, or with a former patient or client when the  
39 relationship was terminated primarily for the purpose of engaging  
40 in those acts, is guilty of sexual exploitation, unless the physician

1 *and surgeon, psychotherapist, or alcohol and drug abuse counselor*  
2 *has referred the patient or client to an independent and objective*  
3 *physician and surgeon, psychotherapist, or alcohol and drug abuse*  
4 *counselor recommended by a third-party physician and surgeon,*  
5 *psychotherapist, or alcohol and drug abuse counselor for*  
6 *treatment.*

7 *(2) Any developmental disability residential service provider*  
8 *who engages in an act of sexual intercourse, sodomy, oral*  
9 *copulation, or sexual contact with a person with a developmental*  
10 *disability who is an inpatient or resident of a treatment or care*  
11 *facility where the provider is employed or holds himself or herself*  
12 *out to be employed, or any former developmental disability*  
13 *residential service provider who engages in any of those acts with*  
14 *an inpatient or resident when the inpatient or resident has not*  
15 *been informed or does not understand that the former provider is*  
16 *not employed by the treatment or care facility, is guilty of sexual*  
17 *exploitation.*

18 *(b) Sexual exploitation by a physician and surgeon,*  
19 *psychotherapist, alcohol and drug abuse counselor, or a*  
20 *developmental disability residential service provider is a public*  
21 *offense:*

22 *(1) An act in violation of subdivision (a) shall be punishable by*  
23 *imprisonment in a county jail for a period of not more than six*  
24 *months, or a fine not exceeding one thousand dollars (\$1,000), or*  
25 *by both that imprisonment and fine.*

26 *(2) Multiple acts in violation of subdivision (a) with a single*  
27 *victim, when the offender has no prior conviction for sexual*  
28 *exploitation, shall be punishable by imprisonment in a county jail*  
29 *for a period of not more than six months, or a fine not exceeding*  
30 *one thousand dollars (\$1,000), or by both that imprisonment and*  
31 *fine.*

32 *(3) An act or acts in violation of subdivision (a) with two or*  
33 *more victims shall be punishable by imprisonment pursuant to*  
34 *subdivision (h) of Section 1170 of the Penal Code for a period of*  
35 *16 months, two years, or three years, and a fine not exceeding ten*  
36 *thousand dollars (\$10,000); or the act or acts shall be punishable*  
37 *by imprisonment in a county jail for a period of not more than one*  
38 *year, or a fine not exceeding one thousand dollars (\$1,000), or by*  
39 *both that imprisonment and fine.*



1     (4) *Two or more acts in violation of subdivision (a) with a single*  
2 *victim, when the offender has at least one prior conviction for*  
3 *sexual exploitation, shall be punishable by imprisonment pursuant*  
4 *to subdivision (h) of Section 1170 of the Penal Code for a period*  
5 *of 16 months, two years, or three years, and a fine not exceeding*  
6 *ten thousand dollars (\$10,000); or the act or acts shall be*  
7 *punishable by imprisonment in a county jail for a period of not*  
8 *more than one year, or a fine not exceeding one thousand dollars*  
9 *(\$1,000), or by both that imprisonment and fine.*

10    (5) *An act or acts in violation of subdivision (a) with two or*  
11 *more victims, and the offender has at least one prior conviction*  
12 *for sexual exploitation, shall be punishable by imprisonment*  
13 *pursuant to subdivision (h) of Section 1170 of the Penal Code for*  
14 *a period of 16 months, two years, or three years, and a fine not*  
15 *exceeding ten thousand dollars (\$10,000).*

16    (c) *For purposes of subdivision (a), consent of the alleged victim*  
17 *is not a defense. However, physicians and surgeons shall not be*  
18 *guilty of sexual exploitation for touching any intimate part of a*  
19 *patient or client unless the touching is outside the scope of medical*  
20 *examination and treatment, or the touching is done for sexual*  
21 *gratification. In addition, developmental disability residential*  
22 *service providers shall not be guilty of sexual exploitation for*  
23 *touching any intimate part of an inpatient or resident unless the*  
24 *touching is outside the scope of his or her care or treatment*  
25 *responsibilities or the touching is done for sexual gratification.*

26    (d) *For purposes of this section:*

27    (1) *“Psychotherapist” has the same meaning as defined in*  
28 *Section 728 of the Business Professions Code.*

29    (2) *“Alcohol and drug abuse counselor” means an individual*  
30 *who holds himself or herself out to be an alcohol or drug abuse*  
31 *professional or paraprofessional.*

32    (3) *“Sexual contact” means sexual intercourse or the touching*  
33 *of an intimate part of a patient for the purpose of sexual arousal,*  
34 *gratification, or abuse.*

35    (4) *“Intimate part” and “touching” have the same meanings*  
36 *as defined in Section 243.4.*

37    (5) *“Developmental disability” has the same meaning as defined*  
38 *in Section 4512 of the Welfare and Institutions Code.*

39    (6) *“Developmental disability residential service provider”*  
40 *means either of the following:*

1 (A) A person who is, or holds himself or herself out to be, an  
2 employee, contractor, or volunteer of a treatment or care facility  
3 for persons with developmental disabilities who provides treatment  
4 or care to inpatients or residents of the facility.

5 (B) A person who is, or holds himself or herself out to be, an  
6 owner, officer, manager, or supervisor of a treatment or care  
7 facility that provides treatment or care to inpatients or residents  
8 who are persons with developmental disabilities.

9 (e) In the investigation and prosecution of a violation of this  
10 section, a person shall not seek to obtain disclosure of any  
11 confidential files of other patients, clients, or former patients or  
12 clients of the physician and surgeon, psychotherapist, alcohol and  
13 drug abuse counselor, or developmental disability residential  
14 service provider.

15 (f) (1) This section does not apply to sexual contact between a  
16 physician and surgeon and his or her spouse or person in an  
17 equivalent domestic relationship when that physician and surgeon  
18 provides medical treatment, other than psychotherapeutic  
19 treatment, to his or her spouse or person in an equivalent domestic  
20 relationship.

21 (2) This section does not apply to sexual contact between a  
22 developmental disability residential service provider and his or  
23 her spouse or person in an equivalent domestic relationship when  
24 that service provider provides care or treatment to, or is an owner,  
25 officer, manager, or supervisor of the facility that provides care  
26 or treatment to, his or her spouse or person in an equivalent  
27 domestic relationship.

28 (g) If a physician and surgeon, psychotherapist, alcohol and  
29 drug abuse counselor, or developmental disability residential  
30 service provider in a professional partnership or similar group  
31 has sexual contact with a patient, client, or resident in violation  
32 of this section, another physician and surgeon, psychotherapist,  
33 alcohol and drug abuse counselor, or developmental disability  
34 residential service provider in the partnership or group shall not  
35 be subject to action under this section solely because of the  
36 occurrence of that sexual contact.

37 (h) This section does not preclude arrest, prosecution, or  
38 conviction of any person under any other law.

39 (i) This section and Section 729 of the Business and Professions  
40 Code are substantially identical. It is the intent of Legislature that

1 *this section and Section 729 of the Business and Professions Code*  
2 *remain substantially identical following any future amendments.*

3 *SEC. 6. Section 836 of the Penal Code is amended to read:*

4 836. (a) A peace officer may arrest a person in obedience to  
5 a warrant, or, pursuant to the authority granted to him or her by  
6 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2,  
7 without a warrant, may arrest a person whenever any of the  
8 following circumstances occur:

9 (1) The officer has probable cause to believe that the person to  
10 be arrested has committed a public offense in the officer's presence.

11 (2) The person arrested has committed a felony, although not  
12 in the officer's presence.

13 (3) The officer has probable cause to believe that the person to  
14 be arrested has committed a felony, whether or not a felony, in  
15 fact, has been committed.

16 (b) (1) Any time a peace officer is called out on a domestic  
17 violence call, it shall be mandatory that the officer make a good  
18 faith effort to inform the victim of his or her right to make a  
19 citizen's arrest, unless the peace officer makes an arrest for a  
20 violation of paragraph (1) of subdivision (e) of Section 243 or  
21 273.5. This information shall include advising the victim how to  
22 safely execute the arrest.

23 (2) *Any time a peace officer receives a call alleging a violation*  
24 *of Section 729 of the Business and Professions Code and Section*  
25 *268 of this code, the officer shall make a good faith effort to inform*  
26 *the victim of his or her right to make a citizen's arrest, unless the*  
27 *peace officer makes an arrest. This information shall include*  
28 *advising the victim or other person how to safely execute the arrest.*  
29 *If the call was made by a person other than the victim and the*  
30 *victim is unable to understand the information or is unable to*  
31 *execute the citizen's arrest, the officer shall make a good faith*  
32 *effort to inform the person who made the call of his or her right*  
33 *to make the citizen's arrest.*

34 (c) (1) (A) When a peace officer is responding to a call alleging  
35 a violation of a domestic violence protective or restraining order  
36 issued under Section 527.6 of the Code of Civil Procedure, the  
37 Family Code, Section 136.2, 646.91, or paragraph (2) of  
38 subdivision (a) of Section 1203.097 of this code, Section 213.5 or  
39 15657.03 of the Welfare and Institutions Code, or of a domestic  
40 violence protective or restraining order issued by the court of

1 another state, tribe, or territory and the peace officer has probable  
2 cause to believe that the person against whom the order is issued  
3 has notice of the order and has committed an act in violation of  
4 the order, the officer shall, consistent with subdivision (b) of  
5 Section 13701, make a lawful arrest of the person without a warrant  
6 and take that person into custody whether or not the violation  
7 occurred in the presence of the arresting officer. The officer shall,  
8 as soon as possible after the arrest, confirm with the appropriate  
9 authorities or the Domestic Violence Protection Order Registry  
10 maintained pursuant to Section 6380 of the Family Code that a  
11 true copy of the protective order has been registered, unless the  
12 victim provides the officer with a copy of the protective order.

13 *(B) When a peace officer is responding to a call alleging*  
14 *violation of a protective or restraining order against a*  
15 *developmental disability residential service provider issued under*  
16 *Section 6250 of the Family Code, and the peace officer has*  
17 *probable cause to believe that the person against whom the order*  
18 *is issued has notice of the order and has committed an act in*  
19 *violation of the order, the officer shall make a lawful arrest of the*  
20 *person without a warrant and take that person into custody whether*  
21 *or not the violation occurred in the presence of the arresting*  
22 *officer. The officer shall, as soon as possible after the arrest,*  
23 *confirm with the appropriate authorities that a true copy of the*  
24 *protective or restraining order has been registered, unless the*  
25 *victim or another person provides the officer with a copy of the*  
26 *order.*

27 (2) The person against whom a protective order has been issued  
28 shall be deemed to have notice of the order if the victim *or, in the*  
29 *case of a person with a developmental disability, another person*  
30 presents to the officer proof of service of the order, the officer  
31 confirms with the appropriate authorities that a true copy of the  
32 proof of service is on file, or the person against whom the  
33 protective order was issued was present at the protective order  
34 hearing or was informed by a peace officer of the contents of the  
35 protective order.

36 (3) In situations where mutual protective orders have been issued  
37 under Division 10 (commencing with Section 6200) of the Family  
38 Code, liability for arrest under this subdivision applies only to  
39 those persons who are reasonably believed to have been the  
40 dominant aggressor. In those situations, prior to making an arrest

1 under this subdivision, the peace officer shall make reasonable  
2 efforts to identify, and may arrest, the dominant aggressor involved  
3 in the incident. The dominant aggressor is the person determined  
4 to be the most significant, rather than the first, aggressor. In  
5 identifying the dominant aggressor, an officer shall consider (A)  
6 the intent of the law to protect victims of domestic violence from  
7 continuing abuse, (B) the threats creating fear of physical injury,  
8 (C) the history of domestic violence between the persons involved,  
9 and (D) whether either person involved acted in self-defense.

10 (d) (1) Notwithstanding paragraph (1) of subdivision (a), if a  
11 suspect commits an assault or battery upon a current or former  
12 spouse, fiancé, fiancée, a current or former cohabitant as defined  
13 in Section 6209 of the Family Code, a person with whom the  
14 suspect currently is having or has previously had an engagement  
15 or dating relationship, as defined in paragraph (10) of subdivision  
16 (f) of Section 243, a person with whom the suspect has parented  
17 a child, or is presumed to have parented a child pursuant to the  
18 Uniform Parentage Act (Part 3 (commencing with Section 7600)  
19 of Division 12 of the Family Code), a child of the suspect, a child  
20 whose parentage by the suspect is the subject of an action under  
21 the Uniform Parentage Act, a child of a person in one of the above  
22 categories, any other person related to the suspect by consanguinity  
23 or affinity within the second degree, or any person who is 65 years  
24 of age or older and who is related to the suspect by blood or legal  
25 guardianship, a peace officer may arrest the suspect without a  
26 warrant where both of the following circumstances apply:

27 (1)

28 (A) The peace officer has probable cause to believe that the  
29 person to be arrested has committed the ~~assault or battery~~, *crime*,  
30 whether or not it has in fact been committed.

31 (2)

32 (B) The peace officer makes the arrest as soon as probable cause  
33 arises to believe that the person to be arrested has committed the  
34 ~~assault or battery~~ *crime*, whether or not it has in fact been  
35 committed.

36 (2) *If a suspect violates Section 729 of the Business and*  
37 *Professions Code and Section 268 of this code, a peace officer*  
38 *may arrest the suspect without a warrant if the conditions of*  
39 *subparagraphs (A) and (B) of paragraph (1) are satisfied.*

(e) In addition to the authority to make an arrest without a warrant pursuant to paragraphs (1) and (3) of subdivision (a), a peace officer may, without a warrant, arrest a person for a violation of Section 25400 when all of the following apply:

(1) The officer has reasonable cause to believe that the person to be arrested has committed the violation of Section 25400.

(2) The violation of Section 25400 occurred within an airport, as defined in Section 21013 of the Public Utilities Code, in an area to which access is controlled by the inspection of persons and property.

(3) The peace officer makes the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the violation of Section 25400.

*SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

*However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.*

**SECTION 1.** ~~Section 22500 of the Business and Professions Code is amended to read:~~

~~22500. (a) A ticket seller shall have a permanent business address from which tickets may only be sold and that address shall be included in any advertisement or solicitation, and shall be duly licensed as may be required by any local jurisdiction.~~

~~(b) A violation of this section shall constitute a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by fine not exceeding two thousand five hundred dollars (\$2,500), or by both.~~

~~(c) Any person who engages, has engaged, or proposes to engage in a violation of this section shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each~~

1 violation, which may be assessed and recovered in a civil action  
2 brought in the name of the people of the State of California by the  
3 Attorney General, or a district attorney, or a city attorney of a city  
4 that has a population in excess of 750,000, and, with the consent  
5 of the district attorney, by a city prosecutor in any city, county, or  
6 city and county that has a full-time prosecutor in any court of  
7 competent jurisdiction. Payment of the civil penalty shall be made  
8 pursuant to the provisions of subdivision (b) of Section 17206. For  
9 the purposes of this section, each ticket sold or offered for sale in  
10 violation of this section shall constitute a separate violation. The  
11 remedies provided by this section are cumulative to each other and  
12 to the remedies or penalties available under all other laws of this  
13 state.

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